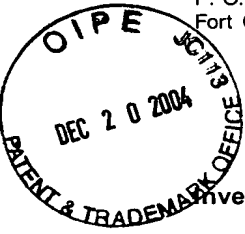


HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

PATENT APPLICATION

ATTORNEY DOCKET NO. 100200673-1



IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Guy William Gladden et al.

Confirmation No.: 6086

Application No.: 10/074,658

Examiner: GALL, Lloyd A.

Filing Date: Feb. 13, 2002

Group Art Unit: 3676

Title: Enclosure Securing Apparatus

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is a Supplemental Appeal Brief in this application with respect to the Notice of Appeal filed on July 15, 2004.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$340.00. The fee required under 37 CFR 1.17(c) has been previously authorized.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

() (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

() one month	\$110.00
() two months	\$430.00
() three months	\$980.00
() four months	\$1530.00

() The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of \$0.00. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

(X) I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450. Date of Deposit: Dec. 14, 2004

OR

() I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number _____ on _____

Number of pages:

Typed Name: Rebecca R. Schow

Signature: 

Respectfully submitted,

Guy William Gladden et al

By 

Steven L. Nichols

Attorney/Agent for Applicant(s)

Reg. No. **40,326**

Date: **Dec. 14, 2004**

Telephone No.: **(801) 572-8066**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Patent Application of

Guy William Gladden et al.

Application No. 10/074,658

Filed: **February 13, 2002**

For: Enclosure Securing Apparatus

Group Art Unit: 3676

Examiner: GALL, Lloyd A.

Confirmation No.: 6086

SUPPLEMENTAL APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an Appeal Brief under Rule 41.37 appealing the final decision of the Primary Examiner dated February 24, 2004 (Paper No. 10). Each of the topics required by Rule 41.37 is presented herewith and is labeled appropriately.

Applicant filed an earlier Appeal Brief in this matter September 14, 2004 and believes that the fee due under 37 C.F.R. § 41.20(b)(2) was paid in connection with that earlier brief. However, if any additional fees are due, authorization is hereby given to charge Deposit Account 08-2025.

The Appeal Brief of September 14, 2004 was supplemented by a second brief filed September 15, 2004 to more fully comply with Rule §41.37. The present Brief is a second

supplemental brief to add the Evidence and Related Proceedings appendices mentioned by Rule §41.37. This second supplemental brief is filed in response to the Notice mailed December 7, 2004 in this matter.

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no appeals or interferences related to the present application of which the Appellants are aware.

III. Status of Claims

Claims 12-19 and 39-45 are currently pending in the application and all stand finally rejected. Claims 1-11, 20-38 and 46-58 have been cancelled. Appellant appeals from the final rejection of claims 12-19 and 39-45, which claims are presented in the Appendix.

IV. Status of Amendments

Following the final Office Action of February 24, 2004 (Paper No. 10), Appellant filed one after-final amendment on April 22, 2004. In that amendment, withdrawn claims 25-

29 were cancelled. Claims 1-11, 30-38 and 46-58 were also cancelled. Claims 20-24 were cancelled previously. Claims 16, 19, 41 and 45 were amended in the after-final amendment to correct minor informalities noted by the Examiner in the final Office Action. None of those amendments do, or are intended to, narrow or alter the scope of any claim.

In an Advisory Action dated June 23, 2004, the Examiner indicated that the after-final amendment would be entered on appeal. Consequently, the Claims Appendix attached hereto lists the claims as amended in the after-final amendment filed April 22, 2004. The Advisory Action failed, however, to make any response to the points and arguments made in Appellant's after-final amendment.

V. Summary of Claimed Subject Matter

Common in the electronics, computer, and other industries are cabinets to house various components. Typically the cabinets comprise a sheet metal or plastic chassis arranged in a rectangular configuration with an access panel on one side. The access panel provides users admission to the interior of the cabinet and access to the components housed therein so that the components can be upgraded, serviced, monitored, or otherwise maintained. The access panels of typical electrical cabinets often include a lever arm to facilitate attachment of the access panel to the cabinet. (Appellant's specification, paragraphs 0002 and 0003).

Appellant's FIG. 4 illustrates a novel arrangement for an enclosure securing apparatus (40) that includes a handle lever (52) pivotably attached to a handle housing (50). The pivotal attachment between the handle lever (52) and the handle housing (50) may be facilitated by snap-fitting protrusions (e.g., 62) of the handle lever (52) into holes (e.g., 66) of the handle housing (50). (Appellant's specification, paragraph 0036).

Given the pivotal attachment of the handle lever (52) to the handle housing (50) as shown in FIG. 4, the handle lever (52) may be selectively moved between two positions. The first or closed position is when the handle lever (52) is arranged substantially flush with the handle housing (50) (an example is shown in FIG. 11). The second or open position is shown in FIG. 4 in which the handle lever (52) creates an angle with the handle housing (50) and an end (72) of the handle lever (52) extends through a hole in the handle housing (50), as shown in FIG. 4. (Appellant's specification, paragraph 0037)

To facilitate the removal of a cover on a cabinet or chassis, the handle lever (52) may be pivoted from the first or closed position shown in FIG. 11 to the second or open position shown in FIG. 4. In order to pivot the handle lever (52) from the closed position to the open position, sufficient force is applied to a second end (72) of the handle lever to urge detents (98 and 100) on the opposite end (70) of the handle lever (72) past wing elements (108 and 110) that extend at the hole in the handle housing (50) through which the opposite end (70) of the handle lever (72) extends. (See FIG. 4). The detents (98 and 100) may be rounded such that a minimum force applied to the handle lever (52) will cause the wing elements (108 and 110) to deflect as the detents (98 and 100) pass thereby. (Appellant's specification, paragraph 0048).

When the handle lever (52) reaches the open position (shown in FIG. 4), the detents (98 and 100) will have passed by the wing elements (108 and 110), and the wing elements will no longer be deflected. The wing elements (108 and 110) in combination with the detents (98 and 100) thereafter advantageously support the handle lever (52) and prevent the handle lever (52) from inadvertently returning to the closed position while a user attempts to remove or re-install the cover (42, FIG. 12) in which the handle housing (50) and handle lever (72) reside. The handle lever (52) will remain in the open position until a sufficient force is

applied to overcome the bias of the wing elements abutting the detents. (Appellant's specification, paragraph 0048).

With the handle lever (52) in the open position, the cover may be placed into proper engagement with a respective cabinet or chassis. Once the cover (42) is correctly installed, the handle lever (52) may be pivoted to the closed position, shown in FIG. 11, to secure the cover (42) to the respective cabinet or chassis. A sufficient force applied to the handle lever (52) will urge the detents (98 and 100) to deflect and move past the wing elements (108 and 110) toward the closed position. The handle lever can then be locked, if desired, to prevent unauthorized opening of the handle lever and removal of the cover (42). (Appellant's specification, paragraph 0049).

VI. Grounds of Rejection to be Reviewed on Appeal

In the final Office Action, the specification was objected to as not providing proper antecedent basis for the subject matter in claims 1 and 2. Next, the final Office Action objected to claims 2, 16, 19, 33, 36, 38, 41, 45, 47 and 54 due to various informalities. Some of these claims were cancelled, others were amended in the after-final response of April 22, 2004 to address the noted informalities. With regard to the prior art, a number of rejections were made under 35 U.S.C. § 102 and § 103(a) based principally on U.S. Patent No. 4,638,649 to Chao ("Chao") and U.S. Patent No. 2,642,300 to Pelcin ("Pelcin"). All the rejections of, and objections to, claims 1-11, 30-38 and 46-58 are presumably rendered moot by the cancellation of those claims.

The Advisory Action fails to clearly state which objections and rejections were overcome or rendered moot by Appellant's after-final response of April 22, 2004. The Advisory Action merely states, when giving the status of the claims, that claims 12-19 and

39-45 are rejected. Therefore, Appellant assumes that the only remaining issue on appeal is the rejection of claims 12-19 and 39-45.

Claims 12, 14, 15, 30-33 and 39-41 were rejected as unpatentable under 35 U.S.C. § 103(a) over the subject matter of Figs. 1 and 2 of Appellant's specification in combination with the teachings of Chao. Claims 13, 16, 17, 42 and 43 were rejected under 35 U.S.C. § 103(a) over the subject matter of Figs. 1 and 2 of Appellant's specification ("Figs. 1 and 2") in combination with the teachings of Chao and Pelcin.

Accordingly, the issues presented on this appeal are:

(1) Whether claims 12, 14, 15, 30-33 and 39-41 are patentable under 35 U.S.C. § 103(a) over the subject matter of Figs. 1 and 2 of Appellant's specification in combination with the teachings of Chao; and

(2) Whether claims 13, 16, 17, 42 and 43 are patentable under 35 U.S.C. § 103(a) over the subject matter of Figs. 1 and 2 of Appellant's specification in combination with the teachings of Chao and Pelcin.

VII. Argument

Claims 12, 13, 16-19, 39 and 42-45

Claim 12 recites:

A holding mechanism comprising:
a lever handle housing for housing a lever handle when said lever handle is in a closed position; and
a lever arm comprising said lever handle attached to the housing, an end of the lever arm opposite said lever handle extending through a hole in said housing;
wherein said lever handle housing comprises at least one deflectable wing extending at said hole in said housing; and
wherein said end of said lever arm comprises at least one protrusion disposed to interfere with said at least one wing such that said lever arm is maintained in an

open or closed position by abutments of said at least one protrusion and said at least one wing unless sufficient force is applied to deflect said wing and allow said protrusion to pass by said wing.

In contrast, neither Figs. 1 and 2 of Appellant's specification nor Chao teach or suggest the claimed deflectable wing that extends from a handle housing at a hole in that housing through which a lever extends. Neither Figs. 1 and 2 nor Chao teach or suggest a protrusion on a lever arm that interferes with such a deflectable wing to maintain the lever in either an open or closed position until sufficient force is applied to deflect the wing and allow the protrusion to pass the wing, as claimed.

Independent claim 39 similarly recites:

A method of selectively securing an access panel comprising:
providing a lever handle housing for housing a lever handle when said lever handle is in a closed position, said housing being disposed in said access panel and comprising at least one deflectable wing extending at a hole in said housing;
attaching a lever arm comprising said lever handle to the housing, an end of the lever arm opposite said lever handle extending through said hole in said housing and comprising at least one protrusion disposed to interfere with said at least one wing;
maintaining said lever arm in an open or closed position by abutments of said at least one protrusion and said at least one wing until sufficient force is applied to deflect said wing and allow said protrusion to pass by said wing.

As before, neither Figs. 1 and 2 nor Chao teach or suggest providing a lever handle "comprising at least one deflectable wing extending at a hole in said housing." Neither Figs. 1 and 2 nor Chao teach or suggest "maintaining said lever arm in an open or closed position by abutments of said at least one protrusion and said at least one wing until sufficient force is applied to deflect said wing and allow said protrusion to pass by said wing."

The final Office Action does not indicate how or where the cited prior art teaches or suggests these features of claims 12 and 39. Appellant pointed out this failing of the final

Office Action in the after-final response of April 22, 2004. However, the subsequent Advisory Action of June 23, 2004 did not include any additional explanation of the rejection of claim 12 and 39. The subsequent Advisory Action did not indicate how or where the prior art teaches or suggest the features of claims 12 and 39. Consequently, no *prima facie* case of unpatentability has been made.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j). Consequently, the rejection of claims 12-19 and 39-45 should not be sustained.

Claims 14 and 40

Claim 14 recites that "the end of said lever arm comprises two protrusions on opposite sides of said end of said lever arm; and wherein the housing further comprises two wings disposed on opposite sides of said end of said lever arm and adapted for releasing engagement with said protrusions." Claim 40 recites similar subject matter.

Neither Figs. 1 and 2 nor Chao teach or suggest the subject matter of claims 14 and 40. Moreover, the final Office Action does not indicate how or where the cited prior art teaches the features of claims 14 and 40. Appellant pointed out this failing of the final Office Action in the after-final response of April 22, 2004. However, the subsequent Advisory Action of June 23, 2004 did not include any additional explanation of the rejection of claims 14 and 40. Consequently, no *prima facie* case of unpatentability has been made.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580

(CCPA 1974)." M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j). For at least this additional reason, the rejection of claims 14 and 40 should not be sustained.

Claims 15 and 41

Claim 15 recites that "said protrusion comprises a rounded surface to facilitate movement past said at least one wing element with the application of force to said lever arm."

Claim 41 recites similar subject matter.

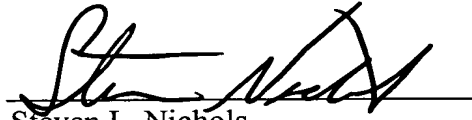
Neither Figs. 1 and 2 nor Chao teach or suggest the subject matter of claims 15 and 41. Moreover, the final Office Action does not indicate how or where the cited prior art teaches the features of claims 15 and 41. Appellant pointed out this failing of the final Office Action in the after-final response of April 22, 2004. However, the subsequent Advisory Action of June 23, 2004 did not include any additional explanation of the rejection of claim 15 and 41. Consequently, no *prima facie* case of unpatentability has been made.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j). For at least this additional reason, the rejection of claims 15 and 41 should not be sustained.

In view of the foregoing, it is submitted that the final rejection of the pending claims is improper and should not be sustained. Therefore, a reversal of the Final Rejection of February 24, 2004 (Paper No. 10) is respectfully requested.

Respectfully submitted,

DATE: 14 September 2004


Steven L. Nichols
Registration No. 40,326

Steven L. Nichols, Esq.
Managing Partner, Utah Office
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095

(801) 572-8066
(801) 572-7666 (fax)

CERTIFICATE OF MAILING

DATE OF DEPOSIT: December 14, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date indicated above in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.


Rebecca R. Schow

CLAIMS APPENDIX

1-11. (cancelled)

12. (previously presented) A holding mechanism comprising:

a lever handle housing for housing a lever handle when said lever handle is in a closed position; and

a lever arm comprising said lever handle attached to the housing, an end of the lever arm opposite said lever handle extending through a hole in said housing;

wherein said lever handle housing comprises at least one deflectable wing extending at said hole in said housing; and

wherein said end of said lever arm comprises at least one protrusion disposed to interfere with said at least one wing such that said lever arm is maintained in an open or closed position by abutments of said at least one protrusion and said at least one wing unless sufficient force is applied to deflect said wing and allow said protrusion to pass by said wing.

13. (previously presented) The mechanism of claim 12, further comprising a lock having a moveable shank.

14. (previously presented) The mechanism of claim 12, wherein the end of said lever arm comprises two protrusions on opposite sides of said end of said lever arm; and wherein the housing further comprises two wings disposed on opposite sides of said end of said lever arm and adapted for releasing engagement with said protrusions.

15. (previously presented) The mechanism of claim 12, wherein said protrusion comprises a rounded surface to facilitate movement past said at least one wing element with the application of force to said lever arm.

16. (previously presented) The mechanism of claim 13, wherein said shank, when in a locked position, extends through a second hole in said housing.

17. (previously presented) The mechanism of claim 16, wherein said shank, when in a locked position, extends through both said second hole in said housing and a hole in said lever handle.

18. (previously presented) The mechanism of claim 12, wherein said lever arm further comprises a snap-fit protrusion on either side of said lever arm for snapping into corresponding holes in said housing, said snap-fit protrusions comprising an axis on which said lever arm turns.

19. (previously presented) The mechanism of claim 12, further comprising a handle snap integrated with said housing for engagement with said lever arm when said lever handle is in a closed position.

20-38. (cancelled).

39. (previously presented) A method of selectively securing an access panel comprising:

providing a lever handle housing for housing a lever handle when said lever handle is in a closed position, said housing being disposed in said access panel and comprising at least one deflectable wing extending at a hole in said housing;

attaching a lever arm comprising said lever handle to the housing, an end of the lever arm opposite said lever handle extending through said hole in said housing and comprising at least one protrusion disposed to interfere with said at least one wing;

maintaining said lever arm in an open or closed position by abutments of said at least one protrusion and said at least one wing until sufficient force is applied to deflect said wing and allow said protrusion to pass by said wing.

40. (previously presented) The method of claim 39, wherein the end of said lever arm comprises two protrusions on opposite sides of said end of said lever arm; and wherein the housing further comprises two wings disposed on opposite sides of said end of said lever arm and adapted for releasing engagement with said protrusions.

41. (previously presented) The method of claim 39, further comprising rounding said protrusion to facilitate movement past said at least one wing with the application of force to said lever arm.

42. (previously presented) The method of claim 39, further comprising selectively locking said lever arm in place with a moveable shank.

43. (previously presented) The method of claim 42, wherein said locking comprises moving said shank to extend through a second hole in said housing and a hole in said lever handle.

44. (previously presented) The method of claim 39, further comprising snapping a snap-fit protrusion on either side of said lever arm into corresponding holes in said housing, said snap-fit protrusions comprising an axis on which said lever arm turns.

45. (previously presented) The method of claim 39, further comprising engaging said lever handle in a closed position with a handle snap integrated with said housing.

46-58. (cancelled)

IX. Evidence Appendix

None

X. Related Proceedings Appendix

None

XI. Certificate of Service

None